

## PLEADINGS ALLOWED: FORM OF MOTIONS

7.01: *Filing of Motions.* All motions shall be filed with the Clerk of Court.

7.02: *Duty to Consult before Filing any Motion.* Absent exemption in the governing Federal or Local Civil Rule or as set forth below, all motions shall contain an affirmation by the movant's counsel that prior to filing the motion he or she conferred or attempted to confer with opposing counsel and attempted in good faith to resolve the matter contained in the motion. If a conference could not be held despite an attempt to do so, counsel shall explain why such conference could not be held. Counsel is under no duty to consult with a *pro se* litigant. The following motions are excluded from this Local Civil Rule:

- (A) Motion to dismiss;
- (B) Motion for summary judgment;
- (C) Motion for new trial or judgment as a matter of law;
- (D) Other similar dispositive motions; and
- (E) Motions filed in real estate mortgage foreclosure cases.

7.03: *Motions to be Promptly Filed.* Attorneys are expected to file motions immediately after the issues raised thereby are ripe for adjudication.

7.04: *Supporting Memoranda.* All motions made other than in a hearing or trial or to compel discovery shall be timely filed with an accompanying supporting memorandum which shall be filed and made part of the public record. However, unless otherwise directed by the Court, a supporting memorandum is not required if a full explanation of the motion as set forth in Local Civil Rule 7.05 is contained within the motion and a memorandum would serve no useful purpose. Where appropriate, motions shall be accompanied by affidavits or other supporting documents.

Any motion to compel discovery shall set forth the grounds for the motion, including a statement explaining why the discovery should be had within the context of the action (where the motion challenges objections) or the relevant dates of service and facts demonstrating noncompliance or supporting a challenge to the sufficiency of the response. Legal authorities need not be included in the statement unless unusual legal issues are present or a privilege has been asserted. Relevant portions of the discovery material shall be filed with the motion. *See* Local Civil Rule 5.01.

7.05: *Form and Content of Memoranda.*

- (A) A memorandum shall contain:
  - (1) A concise summary of the nature of the case;

- (2) A concise statement of the facts that pertain to the matter before the Court for ruling with reference to the location in the record;
  - (3) The argument (brevity is expected) relating to the matter before the Court for ruling with appropriate citations;
  - (4) Copies of any unpublished decisions, out-of-region court decisions,<sup>2</sup> or decisions published in the various specialized reporting services (*e.g.*, CCH Tax Reports, Labor Reports, UCC Reporting Service, etc.);
  - (5) Where the memorandum opposes a motion for summary judgment, a concise statement of the material facts in dispute shall be set forth with reference to the location in the record;
  - (6) Any special content required by any Federal or Local Civil Rule governing the subject matter of the motion.<sup>3</sup>
- (B) Unless an exception is granted by the Court, no memorandum shall exceed:
- (1) 35 double-spaced pages, in the case of an initial brief of any party (Local Civil Rule 7.04); and
  - (2) 15 double-spaced pages, in the case of any reply (Local Civil Rule 7.07).

The page limitation is exclusive of affidavits, supporting documentation, and copies of authority required to be attached by Local Civil Rule 7.05(A)(4).

**7.06: Responses to Motions.** Any memorandum or response of an opposing party must be filed with the Clerk of Court within fifteen (15) days of the service of the motion unless the Court imposes a different deadline. If no memorandum in opposition is filed within fifteen (15) days of the date of service, the Court will decide the matter on the record and such oral argument as the movant may be permitted to offer, if any.

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<sup>2</sup> Cases published in the South Eastern Reporter, Federal Supplement, Federal Reporter, or Supreme Court Reporter need not be provided.

<sup>3</sup> Additional content and timing requirements for specific motions are addressed in separate rules relating to the subject matter of the motion. *E.g.*, Local Civil Rules 5.03 (Filing Documents under Seal); 6.01 (Motion for Enlargement or Shortening of Time); 6.02 (Protection Requests); 16.00(C) (Stay of Deadlines and Entry of Scheduling Order); 30.04(C) (Conduct During Depositions – motion required within five days of directing a witness not to respond); 83.I.05 (Appearances by Attorneys not Admitted in the District); and 83.I.07 (Withdrawal of Appearance).

Any response supported by discovery material shall specify with particularity the portion of the discovery material relied upon in support of counsel's position, summarize the material in support of counsel's position, and shall attach relevant portions of the discovery material or deposition. *See* Local Civil Rule 5.01.

Each response to a motion to compel discovery shall include a statement explaining why the discovery should not be had in the context of that action. Legal authorities need not be included in the statement unless unusual legal issues are present or a privilege has been asserted.

7.07: *Replies.* Replies to responses are discouraged. However, a party desiring to reply to matters raised initially in a response to a motion or in accompanying supporting documents shall file the reply within five (5) days after service of the response, unless otherwise ordered by the Court.

7.08: *Hearings on Motions.* Hearings on motions may be ordered by the Court in its discretion. Unless so ordered, motions may be determined without a hearing.

7.09: *Frivolous or Delaying Motions.* Where the Court finds that a motion is frivolous or filed for delay, sanctions may be imposed against the party or counsel filing such motion.

7.10: *Draft Orders Submitted by Counsel.*

- (A) *Matters to which Applicable.* This Local Civil Rule is applicable to all draft orders or proposed findings and conclusions submitted by counsel.
- (B) *General standards.* The Court may request proposed orders from counsel in compliance with the standards set forth below and by the Fourth Circuit and United States Supreme Court:<sup>4</sup>
  - (1) Whenever practicable, the Court will provide oral or written guidance in the form of a tentative ruling, outline of matters to be addressed, or ruling as to matters not to be included.
  - (2) Any tentative ruling of the Court pursuant to Local Civil Rule 7.10(B)(1) will remain subject to modification until the final order is signed.
  - (3) Proposed orders will make reference to supporting evidence (*e.g.*, by name of witness or exhibit number) where applicable.
  - (4) Copies of proposed orders will be provided to all counsel of record at the

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<sup>4</sup> *Anderson v. City of Bessemer*, 470 U.S. 564, 571-73 (1985); *Aiken County v. BSP Division of Envirotech Corp.*, 866 F.2d 661, 676-77 (4th Cir. 1989).

same time and in the same manner as provided to the Court; provided, however, that if the Court requests proposed findings and conclusions to be submitted before trial, the Court may postpone the required exchange until after trial.

- (5) Unless otherwise ordered, opposing counsel will have ten (10) business days from receipt in which to comment on the proposed order. Comment may be provided by letter.
- (6) Counsel are encouraged to submit orders to the Court both by hard copy and in electronic form (*i.e.*, on computer disk) to facilitate revision by the Court.